



**CITY OF ROCKVILLE  
ROCKVILLE, MARYLAND**

**REQUEST FOR PROPOSAL #22-13  
EXECUTIVE SEARCH SERVICES**

Sealed proposals addressed to the City of Rockville, Maryland will be received at Rockville City Hall, Purchasing Division, Attention: Jonathan Pierson, Acting Purchasing Manager, 111 Maryland Avenue, Rockville, Maryland 20850 until **2:00 PM, THURSDAY, FEBRUARY 14, 2013**. No proposals will be accepted after that time.

**RECEIPT AND HANDLING OF PROPOSALS**

The offeror assumes full responsibility for the timely delivery of the proposal to the designated location. Proposals delivered to any other office or location will not be considered. In accordance with Chapter 17 of the City's Purchasing Ordinance, competitive sealed proposals are not publicly opened or otherwise handled so as to permit disclosure of the identity of any offeror or the contents of any proposal to competing offerors during the evaluation process. The proposals, except for information identified by the offeror as proprietary, shall be open for public inspection after the contract award.

**SUBMITTAL OF QUESTIONS**

Prospective offerors are requested to submit any questions no later than **1:00 PM, WEDNESDAY, FEBRUARY 6, 2013** to Jonathan Pierson, Acting Purchasing Manager via e-mail at: [jpierson@rockvillemd.gov](mailto:jpierson@rockvillemd.gov). Oral answers to questions relative to interpretation of requirements or the proposal process will not be binding on the City.

Without divulging the source of any query, questions will be answered and will be made available in the form of an addendum. Such addendum, if issued, will be posted on the eMaryland Marketplace <https://ebidmarketplace.com> and on the City's website at <http://rockvillemd.gov/business/bids.htm#bids>.

Acknowledgment of the receipt of all addendum to this RFP issued must accompany the Offeror's proposal in the Transmittal Letter. Failure to acknowledge receipt of addendum does not relieve the Offeror from complying with all terms of any such addendum.

**AWARD**

Award will be made to the qualified offeror obtaining the highest weighted score combining price and technical qualifications.

## **CONTRACT**

The successful offeror shall be required to complete a two-party standard form of agreement. Part or all of this RFP and the successful proposal may be incorporated into the contract. A sample agreement is included as Exhibit E. No change to the agreement form will be considered.

## **INSURANCE**

The successful offeror shall be required to provide a certificate of insurance in accordance with requirements set forth in Exhibit D.

## **NOTICE TO BIDDERS**

Companies not incorporated in the State of Maryland must be in compliance with the State of Maryland Code of Regulations Title 21, State Procurement Regulations, in order to enter into a contract with the City. "Pursuant to 7-201 et seq of the Corporations and Associations Article of the Annotated Code of Maryland, corporations not incorporated in the State shall be registered with the State Department of Assessments and Taxation, 301 West Preston Street, Baltimore, MD 21201 before doing any interstate or foreign business in this State. Before doing any intrastate business in this State, a foreign corporation shall qualify with the Department of Assessments and Taxation." Bidders must supply with their bids their US Treasury Department Employer's Identification Number as such number is shown on their Employer's Quarterly Federal Tax Return (US Treasury Department Form No. 941). Companies located outside Maryland should call 1-410-767-1006, or e-mail: charterhelp@dat.state.md.us.

## **QUALIFICATIONS TO CONTRACT WITH PUBLIC BODY**

Bidders must be qualified to bid in the state in accordance with Section 14-308 of the State Finance and Procurement Article of the Annotated Code of Maryland which ordains that any person convicted of bribery (upon acts committed after July 1, 1977) in furtherance of obtaining a contract from the State or any subdivision of the State of Maryland shall be disqualified from entering into a contract with the City.

## **DISABILITY INFORMATION**

Any individuals with disabilities who would like to receive the information in this document in another form may contact the ADA Coordinator at (240) 314-8100; TDD (240) 314-8137.

## SCOPE OF SERVICES

### 1. **PURPOSE**

The City of Rockville invites qualified Executive Search firms to submit proposals to assist the City Manager in the selection of a Director of Human Resources. A contract will be awarded to a highly qualified and experienced executive search firm with a strong record in recruiting for human resources executive level positions, preferably for municipal governments.

### 2. **COMMUNITY PROFILE**

The City of Rockville has an estimated population of 62,746 and has a land area of 13.03 square miles. Rockville is the third-largest incorporated municipality in Maryland and is the county seat of Montgomery County. It is located in the middle of Montgomery County's bio-tech corridor. Located 12 miles northwest of Washington, D.C., Rockville is an urban community experiencing redevelopment at transportation hubs and on commercial corridors that will continue to increase the City's population and density. The City enjoys a AAA bond rating.

Rockville provides a full range of services for its residents. These services include, but are not limited to, police protection, street maintenance, park maintenance, recreation, refuse collection, planning and zoning, code enforcement, water, and sewer.

The City of Rockville established a Council/Manager form of government in 1948. The governing body is composed of five members: a Mayor and four Councilmembers, who are elected at large for two year terms in November of odd-numbered years. The Mayor and Council serve part-time and are compensated.

### 3. **BACKGROUND**

The Director of Human Resources position is responsible for the following functional areas:

- staffing and recruitment;
- employee health and wellness;
- employee learning, performance, and development;
- personnel policies and procedures;
- labor and employee relations; and,
- safety and risk management.

These services are provided by 10.0 FTEs and various contractors. The Human Resources Department's FY 2013 operating budget totals approximately \$1.4 million.

The Director of Human Resources is a member of the City's senior management team and assists the City Manager in strategic management planning. Detailed information on the Department of Human Resources can be found beginning on page 10-1 of the City's FY 2013 Adopted Operating Budget. The budget book can be found at: <http://www.rockvillemd.gov/budget/adoptedfy13.htm>.

4. **QUALIFICATIONS**

The firm must be a national or regional professional executive search firm that specializes in recruiting senior level executives. The firm shall have successfully concluded executive searches for senior level Human Resources professionals during the past five years, preferably for municipal government entities.

5. **SCOPE OF WORK**

The firm shall provide services consisting of, but not limited to, the following tasks:

- a. Assist the City Manager with the development of a candidate profile which outlines the desired skills and qualifications that the position should possess. The profile development process will include individual interviews with the Mayor and City Council and a group interview with City department heads. The City Manager is also interested in exploring the development of a survey instrument to allow for input from Human Resources Department staff members and departmental customers.
- b. Develop recruitment materials that describe the position, the City organization, and the community.
- c. Conduct a broad and thorough recruitment utilizing professional publications and other current advertising methods. Post the position through national channels and conduct personal outreach recruiting.
- d. Acknowledge receipt of candidates' application materials. Review and screen applications for background, credentials, and experience. Conduct follow-up telephone interviews to clarify each candidate's experience.
- e. Assist the City Manager in the evaluation and selection of approximately five candidates as finalists.
- f. Conduct comprehensive background checks on the proposed finalists, including verification of education, credentials, and work history. Conduct at least three initial professional reference checks on the proposed finalists.
- g. Assist the City Manager in the development of interview questions and other techniques to evaluate candidates.
- h. Coordinate the scheduling of on-site interviews and other activities, such as travel and lodging arrangements, as directed by the City Manager.
- i. Provide notification to all candidates not selected as finalists.
- j. Perform an additional one-time search for a replacement Director of Human Resources (Supplemental Search) if for any reason the original Human Resources Director candidate proposed by the firm leaves the employment of the City within one year after his/her start date with the City. No additional compensation will be paid to the firm for the performance of the Supplemental Search.

## 6. **PROPOSAL SUBMITTAL INSTRUCTIONS**

In order to provide each firm an equal opportunity for consideration, adherence to a standardized proposal format is required. Proposals must be submitted and contain the following elements organized into separate chapters and/or sections, as deemed appropriate. Failure to adhere to this format may result in the disqualification of the firm's proposal.

Firms must submit one (1) original and three (3) copies of the proposal in the format below. Proposals must include the following information:

- a. A Letter of Transmittal on the firm's business stationary. The letter should include the address of the office which would provide the services requested, telephone number, fax, e-mail address, and website, if applicable. The purpose of the letter is to provide a record of transmittal of the proposal in addition to acknowledgements of addendum issued (if any). Include a statement that the firm, if awarded the contract, will execute the City of Rockville's Standard Professional Services Agreement (Exhibit E). The letter should be signed by an individual authorized to commit the firm to the services and requirements stated within the Request for Proposal.
- b. A list of key staff of the firm who will be directly or indirectly involved in working with the City during the recruitment process, specifying the role each will play. For each key staff member, provide a brief resume, including years employed by the search firm and specific search and outreach processes that the staff member has coordinated.
- c. An outline of the search process, including a proposed timeline for each step in the process, including advertising, application screening, and interviewing (assuming a contract award date of March 1, 2013).
- d. A description of how applicants will be recruited, including how the firm will ensure a diverse applicant pool.
- e. A description of the methodology for performing comprehensive background checks and how results will be communicated to the City.
- f. Provide a listing of other governmental entities for which the firm has provided a successful search for a similar position.
- g. Submit a Price Proposal (Exhibit A). Also include with the price proposal a detailed breakdown of costs which includes at a minimum:
  - A lump sum fee proposal for completing the services described herein. Include an estimate of the hours and hourly rates that will be required by the project team to complete the services and deliverables described herein. Hourly rates shall be all inclusive and take into account profit, fees, and other expenses or incidentals such as courier services, mailing, fax transmissions, telephone calls, and printing.
  - The price should incorporate the cost of two multi-day site visits to meet with the City Manager and others as directed. The cost for additional site visits should be noted.

- h. Provide the current name, address, and contact information for five (5) references, preferably municipal government entities, the firm has served; in which the members of the proposed project team provide the same or similar services as required herein. A reference form is included as Exhibit B.
- i. Submit samples of materials used by the firm in two similar searches.
- j. Complete and return the enclosed Non-Conviction/Collusion Affidavit Form (Exhibit C).

## 7. **BASIS OF AWARD/EVALUATION CRITERIA**

It is the intent of the City of Rockville to enter into a contractual agreement with one (1) selected firm based upon the position search and requirements outlined within this RFP and the subsequent revision (if necessary) at a fixed fee rate. The selection process will be conducted by a committee which will independently evaluate proposals based on the following criteria:

Criteria	Possible Points
Experience and qualifications of the Firm	20
Responsiveness and understanding of the scope of services	20
Prior experience in working with local governments of similar size and complexity in the recruitment of department head level positions	20
Qualifications and experience of the personnel to be assigned to the City's executive search	20
Client References	10
Cost	10

The Evaluation Committee will evaluate the proposals and may also ask questions of a clarifying nature from firms as required. The ability to meet the requirements for services is the prime consideration factor. Each Review Committee member will complete a proposal evaluation matrix form for each submission received. A composite rating will be developed which indicates the group's collective ranking of the highest rated proposals. The Evaluation Committee may afford one (1) or more of the top three (3) ranked firms an opportunity to make oral presentations in order to clarify their proposals. If requested, oral presentations shall be made at no cost to the City. Should the City determine in writing and in its sole discretion that only one firm is fully qualified, or that one firm is clearly more highly qualified than the others under consideration, a contract may be negotiated and awarded to that firm.

8. **PURCHASING MANAGER**

The sole point of contact at the City for purposes of this RFP, prior to the award of any contract, is the Acting Purchasing Manager at the address listed below:

Jonathan Pierson  
Acting Purchasing Manager  
City Hall - Purchasing Division  
111 Maryland Avenue  
Rockville, MD 20850  
Telephone: (240) 314-8433  
Email: [jpierson@rockvillemd.gov](mailto:jpierson@rockvillemd.gov)

9. **CONTRACT ADMINISTRATOR**

The designated contract administrator following contract award will be:

Barbara B. Matthews  
City Manager  
111 Maryland Avenue  
Rockville, MD 20850  
Telephone: (240) 314-8101  
Email: [bmatthews@rockvillemd.gov](mailto:bmatthews@rockvillemd.gov)

10. **SPECIAL PROVISIONS**

**COMPENSATION**

The City will compensate the Contractor in the form of either one (1) lump sum payment upon completion and acceptance of all work, or monthly progress payments for work completed, which has also resulted in a deliverable of equal value that has been received and accepted by the City.

Total compensation shall not exceed the fixed, firm lump sum price proposed within Contractor's offer.

Note: The City reserves the right to develop an evaluation formula for pricing after receipt of proposals, and reserves the right to give preferential price scoring to offers containing lump sum payment upon completion and acceptance of all work.

**EXPENSES ASSOCIATED WITH RESPONSE**

The City of Rockville will not be responsible for any expenses incurred by a firm in preparing and submitting a proposal. All proposals shall provide a straightforward, concise delineation of the firm's capabilities to satisfy the requirements of this request.

**CONTRACT EXCLUSION AND AFFIRMATION**

By submitting a proposal, the firm hereby certifies that:

The firm has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted proposal.

The firm, corporation, partnership or institution represented by the offeror, or anyone acting for such firm, corporation or institution has violated the antitrust laws, nor communicated directly or indirectly the proposal made to any competitor or any other person engaged in such line of business.

The firm has not received compensation for participation in the preparation of the specifications for this Request for Proposal.

#### COMPLIANCE WITH CONTRACT

The City of Rockville will decide all questions, which may arise as to the quality or acceptability of work performed, the manner of performance and the rate of progress of the work, the interpretation of the requirements, Request for Proposal, Firm's proposal and contract, as well as, acceptable fulfillment of the contract on the part of the firm.

#### PROJECT MANAGER

The Contractor shall agree to ensure the continuity of the designated primary Program Manager assigned to perform the service. Contractor represents and warrants that the primary Program Manager is available for the entirety of the program and shall remain available throughout the term of the contract. Contractor represents and warrants that the Contractor shall not remove or replace the primary Program Manager and agrees that the Contractor's removal or replacement of the primary Program Manager may be grounds for termination of the contract. The City of Rockville recognizes, however, that events beyond the control of Contractor (such as death, physical or mental incapacity, long-term illness, or the termination of employment of the primary Program Manager) may require the Contractor to propose a replacement of another employee of the Contractor. In the event that such a replacement is necessary, Contractor agrees that the replacement person shall have equal or better qualifications to perform the work at no additional cost to the City of Rockville. No replacement person shall begin work on the program without the prior written consent of the City of Rockville.

The Contractor shall ensure the designated Program Manager has the management and technical expertise to perform the required services of the program.

The Contractor shall have access to the Internet, established electronic mail, and required equipment necessary to communicate with the City of Rockville, program participants and its customers. This technology shall be available to the Program Manager to communicate with all necessary parties throughout the term of this contract. It is expected that the Program Manager utilize technology to communicate while traveling, as well as, administering this contract. The Contractor shall have the ability to transmit all documentation required by the City of Rockville electronically.



**EXHIBIT A**

**PRICE PROPOSAL SUMMARY SHEET**

**REQUEST FOR PROPOSAL #22-13  
EXECUTIVE SEARCH SERVICES**

The undersigned hereby proposes to furnish and deliver the services as specified at the prices and terms herein stated and in accordance with this request for proposal, general terms and conditions and requirements all of which are made a part of this offer. All pages of the request for proposal, including but not limited to the general terms and conditions are incorporated by reference into this RFP for all purposes. This form must be signed and dated, submitted to with your proposal

Submit a lump sum fee proposal for completing the services described herein. Include an estimate of the hours and hourly rate that will be required by the project team to complete the services. Hourly rate shall include all profit, fees and other personnel expenditures such as courier, mailing, forms, fax transmissions, telephone calls, printing and all other expenses or incidentals. The lump sum total should incorporate the cost of two 1-day visits to meet with City staff.

<b><u>DESCRIPTION</u></b>	<b><u>PROPOSED HOURS</u></b>	<b><u>TOTAL</u></b>
Search for Human Resources Director	_____	\$ _____
Cost of each Additional Site Visit		\$ _____

COMMENTS: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**THE BIDDER IS HEREBY NOTIFIED THAT THIS DOCUMENT SHALL BE SIGNED IN INK IN ORDER FOR THE BID TO BE ACCEPTED. BY SIGNING, THE BIDDER CERTIFIES THAT HE/SHE WILL COMPLY IN EVERY ASPECT WITH THESE SPECIFICATIONS.**

The bid, if submitted by an individual, shall be signed by an individual; if submitted by a partnership, shall be signed by such member or members of the partnership as have authority to bind the partnership; if submitted by a corporation the same shall be signed by the President and attested by the Secretary or an Assistant Secretary. If not signed by the President as aforesaid, there must be attached a copy of that portion of the By-Laws, or a copy of a Board resolution, duly certified by the Secretary, showing the authority of the person so signing on behalf of the corporation. In lieu thereof, the corporation may file such evidence with the

Administration, duly certified by the Secretary, together with a list of the names of those officers having authority to execute documents on behalf of the corporation, duly certified by the Secretary, which listing shall remain in full force and effect until such time as the Administration is advised in writing to the contrary. In any case where a bid is signed by an Attorney in Fact the same must be accompanied by a copy of the appointing document, duly certified.

**IF AN INDIVIDUAL:**

NAME: \_\_\_\_\_

\_\_\_\_\_  
Street and/or P.O. Box

\_\_\_\_\_  
City State Zip Code Fed ID or SSN

\_\_\_\_\_  
Signature (SEAL) Date

\_\_\_\_\_  
Print Signature

WITNESS: \_\_\_\_\_

Signature

\_\_\_\_\_  
Print Signature

**IF A PARTNERSHIP:**

NAME OF PARTNERSHIP: \_\_\_\_\_

\_\_\_\_\_  
Street and/or P.O. Box

\_\_\_\_\_  
City State Zip Code Fed ID or SSN

BY: \_\_\_\_\_ (SEAL) \_\_\_\_\_

Member Signature

Date

\_\_\_\_\_  
Print Signature

TITLE: \_\_\_\_\_ WITNESS: \_\_\_\_\_

Signature

\_\_\_\_\_  
Print Signature

**IF A CORPORATION:**

NAME OF CORPORATION: \_\_\_\_\_

\_\_\_\_\_  
Street and/or P.O. Box

\_\_\_\_\_  
City

\_\_\_\_\_  
State

\_\_\_\_\_  
Zip Code

\_\_\_\_\_  
Fed ID or SSN

STATE OF INCORPORATION: \_\_\_\_\_

BY: \_\_\_\_\_ (SEAL) \_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Print Signature

TITLE: \_\_\_\_\_ WITNESS: \_\_\_\_\_  
Secretary's Signature

\_\_\_\_\_  
Print Signature

**CONTACT FOR ADMINISTRATION**

NAME: \_\_\_\_\_

PHONE: \_\_\_\_\_ FAX: \_\_\_\_\_

E-MAIL ADDRESS: \_\_\_\_\_

EMERGENCY SERVICE (24hr.) PHONE: \_\_\_\_\_

**REMITTANCE ADDRESS** (if different than above)

\_\_\_\_\_  
Street and/or P.O. Box

\_\_\_\_\_  
City

\_\_\_\_\_  
State Zip Code

**EXHIBIT B**

**REFERENCES**

The firm shall have performed executive search services work for a minimum period of five (5) years. He shall furnish a representative list of five (5) references involving work as specified herein. Failure to submit the required information with the Proposal may be cause for rejection of the Proposal.

The City the right to investigate and to consider the references and the past performance of any Proposer with respect to such things as its performance or provision of similar goods or services, compliance with specifications and contractual obligations, and its lawful payment of suppliers, subcontractors, and workers. The City further reserves the right to consider past performance, historical information and facts, whether gained from the Proposal, Proposer interviews, references, or any other source in the evaluation process. The City reserves the right to reject any proposal if the evidence submitted by or investigation of such firm fails to satisfy the City that such firm is properly qualified to carry out the obligations of the contract and deliver the service herein.

Government/Organization Name: \_\_\_\_\_

Address: \_\_\_\_\_

Contact Person: \_\_\_\_\_ Email: \_\_\_\_\_

Phone: \_\_\_\_\_ Contract Value: \_\_\_\_\_

Position Filled/Date: \_\_\_\_\_

Government/Organization Name: \_\_\_\_\_

Address: \_\_\_\_\_

Contact Person: \_\_\_\_\_ Email: \_\_\_\_\_

Phone: \_\_\_\_\_ Contract Value: \_\_\_\_\_

Position Filled/Date: \_\_\_\_\_

Government/Organization Name: \_\_\_\_\_

Address: \_\_\_\_\_

Contact Person: \_\_\_\_\_ Email: \_\_\_\_\_

Phone: \_\_\_\_\_ Contract Value: \_\_\_\_\_

Position Filled/Date: \_\_\_\_\_

Government/Organization Name: \_\_\_\_\_

Address: \_\_\_\_\_

Contact Person: \_\_\_\_\_ Email: \_\_\_\_\_

Phone: \_\_\_\_\_ Contract Value: \_\_\_\_\_

Position Filled/Date: \_\_\_\_\_

Government/Organization Name: \_\_\_\_\_

Address: \_\_\_\_\_

Contact Person: \_\_\_\_\_ Email: \_\_\_\_\_

Phone: \_\_\_\_\_ Contract Value: \_\_\_\_\_

Position Filled/Date: \_\_\_\_\_

**RETURN THIS FORM WITH PROPOSAL**

## **EXHIBIT C**

### **A F F I D A V I T**

**I hereby affirm that:**

**I am the \_\_\_\_\_ and the duly authorized representative of the firm of \_\_\_\_\_ whose address is \_\_\_\_\_**

**and that I possess the legal authority to make this affidavit on behalf of myself and the firm for which I am acting. I further affirm:**

#### **AFFIDAVIT OF QUALIFICATION TO CONTRACT WITH A PUBLIC BODY**

1. Except as described in Paragraph 2 below, neither I nor the above firm nor, to the best of my knowledge, any of its controlling stockholders, officers, directors, or partners, performing contracts with any public body (the State or any unit thereof, or any local governmental entity in the state, including any bi-county or multi-county entity), has:

- A. been convicted under the laws of the State of Maryland, any other state, or the United States of any of the following:
- (1) bribery, attempted bribery, or conspiracy to bribe.
  - (2) a criminal offense incident to obtaining, attempting to obtain, or performing a public or private contract.
  - (3) fraud, embezzlement, theft, forgery, falsification or destruction of records, or receiving stolen property.
  - (4) a criminal violation of an anti-trust statute.
  - (5) a violation of the Racketeer Influenced and Corrupt Organization act, or the Mail Fraud Act, for acts in connection with the submission of bids or proposals for a public or private contract.
  - (6) a violation of Section 14-308 of the State Finance and Procurement Article of the Annotated Code of Maryland.
  - (7) conspiracy to commit any of the foregoing.

B. pled nolo contendere to, or received probation before verdict for, a charge of any offense set forth in subsection A of this paragraph.

C. been found civilly liable under an anti-trust statute of the State of Maryland, another state, or the United States for acts or omissions in connection with the submission of bids or proposals for a public or private contract.

D. during the course of an official investigation or other proceeding, admitted, in writing or under oath, an act or omission that would constitute grounds for conviction or liability under any law or statute described in subsection A or C of this paragraph.

2. [State "none," or as appropriate, list any conviction, plea or admission as described in Paragraph 1 above, with the date, court, official or administrative body, the individuals involved and their position with the firm, and the sentence or disposition, if any]. \_\_\_\_\_

3. I further affirm that neither I nor the above firm shall knowingly enter into a contract with the Mayor and Council of Rockville under which a person or business debarred or suspended from contracting with a public body under Title 16 of the State Finance and Procurement Article of the Annotated Code of Maryland, will provide, directly or indirectly, supplies, services, architectural services, construction related services, leases of real property, or construction.

I acknowledge that this Affidavit is to be furnished to the Mayor and Council of Rockville and, where appropriate, to the State Board of Public Works and to the Attorney General. I acknowledge that I am executing this Affidavit in compliance with the provisions of Title 16 of the State Finance and Procurement Article of the Annotated Code of Maryland which provides that persons who have engaged in certain prohibited activity may be disqualified, either by operation in law or after a hearing, from entering into contracts with the Mayor and Council of Rockville. I further acknowledge that if the representations set forth in this Affidavit are not true and correct, the Mayor and Council of Rockville may terminate any contract awarded, and take any other appropriate action.

#### **NON—COLLUSION AFFIDAVIT**

1. Am fully informed respecting the preparation and contents of the attached bid and of all pertinent circumstances respecting such bid;

2. Such bid is genuine and is not a collusive or sham bid

3. Neither the said bidder nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affiant, has in any way colluded, conspired, connived or agreed, directly or indirectly with any other bidder, firm or person to submit a collusive or sham bid in connection with the Contract for which the attached bid has been submitted or to refrain from bidding in connection with Contract, or has in any manner, directly or indirectly, sought by agreement or collusion or communication or conference with any other bidder, firm or person to fix the price or prices in the attached bid or of any other bidder, or to fix any overhead, profit or cost element of the bid price or the bid price of any other

bidder, or to secure through any collusion, conspiracy, connivance or unlawful agreement any advantage against the Mayor and Council of Rockville, Maryland (Local Public Agency) or any person interested in the proposed Contract; and

4. The price or prices quoted in the attached bid are fair and proper and are not tainted by any collusion, conspiracy, connivance or unlawful agreement on the part of the bidder or any of its agents, representatives, owners, employees, or parties in interest, including this affiant.

**I do solemnly declare and affirm under the penalties of perjury that the contents of these affidavits are true and correct. Signature and Title\_\_\_\_\_Date\_\_\_\_\_**

## **EXHIBIT D**

### **CITY OF ROCKVILLE MARYLAND GENERAL CONDITIONS AND INSTRUCTIONS TO BIDDERS**

1. **TERMS AND CONDITIONS** The terms and conditions of this document govern in event of conflict with any terms of the bidder's proposal, and are not subject to change by reasons of written or verbal statement by the Contractor unless accepted in writing. Words and abbreviations that have well known technical or trade meanings are used in accordance with such meanings.
2. **PREPARATION** All bids are to be submitted in a sealed envelope to the Purchasing Office marked with the bid number. Conditional bids and bids containing escalator clauses will not be accepted. Bids must be signed by an individual authorized to bind the bidder.
3. **LATE BIDS** It is the bidder's responsibility to assure delivery of the bid at the proper time to the designated location. Bids delivered to any other office or location will not be considered.
4. **BID AWARD** The award will be made to the offeror whose proposal, in the opinion of the City is the best taking into consideration all aspects of the offeror's responses, including total net cost to the City. In the event that the offeror to whom the award is made does not execute a contract within 15 days from receipt of the contract, the City may give notice to such offeror of intent to award the contract to the next most qualified offeror, or to call for new proposals.
5. **ADDENDUM** In the event that any addenda to this solicitation is issued, all solicitation terms and conditions will retain in effect unless they are specifically changed in the addendum. It is the responsibility of the bidder to make inquiry as to addenda issued. Oral answers to questions relative to interpretation of specifications or the proposal process will not be binding on the City. Such addendums, if issued, will posted at: <http://rockvillemd.gov/business/bids.htm#bids>

Please note, that it is the bidder's responsibility to check this site frequently for Addendums, which may impact pricing, this document's requirements, terms and/or conditions. Failure to acknowledge an addendum on the bid proposal form or to sign and return an Addendum with your response may result in disqualification of proposal.

6. **ACCEPTANCE/REJECTION OF BIDS** The City reserves the right to reject any or all bids in part or full and to waive any technicalities or informalities as may best serve the interests of the City.

Bids shall be valid for a minimum of 120 days following the deadline for submitting offers. Bids may not be withdrawn during that period. If an award is not made during that period, all offers shall be automatically extended for another 120 days. Offers will be automatically renewed until such time as either an award is made or proper notice is given to the Purchasing Agent of Offeror's intent to withdraw its offer. Offers may only be canceled by submitting Notice at least 15 days before the expiration of the then current 120-day period.

7. **MULTI-YEAR BIDS** Multi-year contracts may be continued each fiscal year only after funding appropriations have been granted. In the event necessary funding appropriation is not granted, the multi year contract shall be null and void, effective July 1st of the affected year.
8. **ERRORS IN BIDS** When an error is made in extending total prices the unit bid price will govern. Erasures in bids must be initialed by the bidder. Carelessness in quoting prices or in preparation of bid will not relieve the bidder from performing the contract.
9. **BID WITHDRAWAL** Requests for withdrawal of bids prior to bid opening shall be transmitted to the Purchasing Agent in writing.
10. **MISTAKES** Bidders are expected to be thoroughly familiar with all bid documents, including all addenda. No consideration will be granted for any alleged misunderstanding of the intent of the specifications. Each bidder shall carefully and thoroughly examine these bid documents for completeness. No claim of any bidder will be allowed on the basis that these bid documents are incomplete.
11. **SENSITIVE DOCUMENTS** Sensitive documents (either electronic or hardcopy documents dealing with critical facilities or sensitive information) received from the City must be handled consistent with the terms of non-disclosure required for application. Contractor is responsible to restrict use of sensitive documents to project participants only and shall take appropriate measure to prevent distribution of sensitive document to anyone inside or outside of the Contractor's company except Contractor's project participants. After completion of the project, all sensitive documents remaining in



the Contractor's possession shall continue to be governed under the terms of non-disclosure and must continue to be stored in a secure manner. After such records are no longer needed for record purposes, the records shall be destroyed or returned to the City.

Where services require the Contractor to access the City's electronic information resources and/or its electronic data assets, the Contractor shall adhere to all requirements, terms and conditions of the City's Contractor/Vendor On-Site and Remote Access Confidentiality Agreement, which can be viewed at the following web address:

[http://www.rockvillemd.gov/business/Rockville\\_Confidentiality\\_Policy.pdf](http://www.rockvillemd.gov/business/Rockville_Confidentiality_Policy.pdf).

12. **DOCUMENTS, MATERIALS AND DATA** All documents materials or data developed as a result of this contract are the City's property. The City has the right to use and reproduce any documents, materials and data, including confidential information, used in the performance of, or developed as a result of this contract. The City may use this information for its own purposes, including reporting to state and federal agencies. The contractor warrants that it has title to or right to use all documents, materials or data used or developed in connection with this contract. The Contractor must keep confidential all documents, materials and data prepared or developed by the contractor or supplied by the City.
13. **INTEREST IN MORE THAN ONE BID AND COLLUSION** Multiple bids received in response to a single solicitation from an individual, firm, partnership, corporation, affiliate, or association under the same or different names will be rejected. Reasonable grounds for believing that a bidder is interested in more than one bid for a solicitation both as a bidder and as a subcontractor for another bidder, will result in rejection of all bids in which the bidder is interested. However, a firm acting only as a subcontractor may be included as a subcontractor for two or more bidders submitting a bid for the work. Any or all bids may be rejected if reasonable grounds exist for believing that collusion exists among any bidders. Bidders rejected under the above provisions shall be disqualified if they respond to a re-solicitation for the same work.
14. **EXECUTION OF CONTRACT** The Contractor shall be required to execute a formal agreement with the City within fifteen days from the award. A sample of the agreement is attached. No revisions to the agreement will be allowed.
15. **COMPENSATION** The City will compensate the Contractor in the form of either lump sum payment upon completion and acceptance of the work or monthly progress payments. In either event, compensation shall not exceed any fixed, firm Lump Sum or Total proposed pricing within the Contractor's offer. All non-labor costs associated with administration, including but not limited to plan copies, courier, mailing data processing, forms, fax transmission, telephone calls, printing, office supplies, copying, are to be included with the pricing and hourly rates offer, otherwise they shall become the responsibility of the Contractor. No payment or reimbursement will be made for travel expenses.
16. **INVOICING** The Contractor shall submit invoices, in duplicate, which shall include a detailed breakdown of all charges for that monthly period including employee names, date of services, itemized cost (hours and hourly rates) for service.  
  
Invoices shall be based upon completion of tasks and deliverables and shall reference a City Purchase Order number. All such invoices will be paid promptly by the City of Rockville unless any items thereon are disputed in which event payment will be withheld pending verification of the amount claimed and the validity of the claim. The firm shall provide complete cooperation during any such investigation. All invoices shall be forwarded to the following address: City of Rockville, Attn: (Project Manager), 111 Maryland Avenue, Rockville, MD 20850.
17. **ELECTRONIC PAYMENT OPTION** The Vendor ACH Payment Program of the City allows payments to be deposited directly to a designated financial institution account. Funds will be deposited into the account of your choice automatically and on time. All transactions are conducted in a secure environment. The program is totally free as part of the Finance Department's efforts to improve customer services. Program information and registration can be viewed at the following web address:  
<http://www.rockvillemd.gov/business/payment>
18. **PAYMENT TO SUBCONTRACTOR** Within seven days after receipt of amounts paid by the City for work performed by a subcontractor under this contract, the Contractor shall either: Pay the Subcontractor for the proportionate share of the total payment received from the City of Rockville attributable to the work performed by the Subcontractor under this contract; or Notify the City of Rockville and Subcontractor, in writing, of his/her intention to withhold all or a part of the Subcontractor's payment and the reason for non-payment.
19. **PERSONNEL** Principal or key personnel included in the proposal may not be substituted without written approval of the City of Rockville. Replacements for key personnel under the contract must have equivalent professional qualifications and experience as those individuals listed in the proposal. The Consultant must submit written professional qualifications and experience for approval within ten working days prior to replacement for City review and approval or rejection.
20. **PRICE ADJUSTMENTS (CPI)** Unless otherwise stated in the bid document, rates quoted are to be firm for two (2) years after award of a contract. These rates will apply to additional work, change orders and contract modifications. A

request for price adjustment after the 2-year period is subject to approval or rejection by the Purchasing Agent. The Consultant shall submit to the Purchasing Agent sufficient justification to support the Consultant's request. A request for price adjustment may not be approved which exceeds the amount of the annual percentage change of the Consumer Price Index (CPI) for the twelve-month period immediately prior to the date of the request.

21. **INTERPRETATION** Any questions concerning general instruction and specifications shall be directed in writing to the Purchasing Office. The submission of a bid shall be prima facie evidence that bidder thoroughly understands the terms of the specification. The Contractor shall take no advantage of any error or omission in the specifications.
22. **DELIVERY** All time limits stated in the contract documents are of the essence. The Contractor shall expedite the work and achieve substantial completion within the contract time. If time limits are not specified, state the number of days required to make delivery/completion in the space provided. Defective or unsuitable materials or workmanship shall be rejected and shall be made good by the Contractor, notwithstanding that such materials/workmanship have been previously overlooked and accepted.
23. **DELAYS/EXTENSION OF TIME** If the Contractor is delayed in the delivery of the supplies, equipment or services by any act or neglect of the City or by a separate Contractor employed by the City, or by any changes, strikes, lockouts, fires, unusual delays in transportation or delay authorized by the City, the City shall review the cause of such delay and shall make an extension if warranted.

All claims for extensions must be a written notice sent to the Purchasing Agent within ten (10) calendar days after the date when such alleged cause for extension of time occurred. All such claims shall state specifically the amount of the delay the Contractor believes to have suffered. If statement is not received within the prescribed time the claim shall be forfeited and invalidated.

24. **TERMINATION FOR DEFAULT** The contract may be cancelled or annulled by the City in whole or in part by written notice of default to the Contractor upon nonperformance or violation of contract terms and an award may be made to second ranked Bidder, or, the work may be purchased on the open market similar to those so terminated. In either event, the defaulting Contractor (or his surety) shall be liable to the City for costs to the City in excess of the defaulted contract prices.
25. **TERMINATION FOR CONVENIENCE** The performance of work or services under this contract may be terminated in whole or part, upon five (5) calendar day's written notice when the City determines that such termination is in its best interest. The City shall be liable only for those accepted goods and/or services furnished prior to the effective date of such termination.
26. **ABANDONMENT, DISSOLUTION AND RESTRUCTURING** A Contractor who abandons or defaults the work on this contract and causes this contract to be re-bid will not be considered in future bids for the same type of work unless the scope of the work is significantly changed. Written notification of changes to company name, address, telephone number, etc. shall be provided to the City Of Rockville as soon as possible but not later than thirty (30) days from date of change.
27. **CHANGES** The City, without invalidating the contract, may order written changes in the scope of work consisting of additions, deletions or modification with the contract sum and time being adjusted accordingly. All such changes shall be made in writing by the Purchasing Agent.

The cost or credit to the City from a change in the scope of work shall be determined by mutual agreement. The Contractor shall do all work that may be required to complete the work contemplated at the unit prices or lump sum to be agreed upon.

No alterations or variables in the terms of the contract shall be valid or binding upon the City unless made in writing and signed by the City.

28. **EXTRA COSTS** If the Contractor claims that any instructions by drawings or otherwise involve extra cost or extension of time, a written request must be submitted to the Project Manager within ten (10) calendar days after receipt of such instructions and before proceeding to execute the work, stating in detail the basis for objection. No such claim will be considered unless so made.
29. **DEFECTIVE SUPPLIES/SERVICE** Defective or unsuitable materials or workmanship shall be rejected and shall be made good by the Contractor. Contractor shall be responsible for the professional quality, technical accuracy, timely completion, and the coordination of all its effort and other services furnished by Contractor under the Agreement. Without additional compensation, Contractor shall correct or revise any errors, omissions, or other deficiencies in all products of its efforts and other services provided. This shall include resolving any deficiencies arising out of the acts or omissions of Contractor found during or after the course of the services performed by or for Contractor under this Agreement, regardless of City having knowledge of or condoning/accepting the products or the services. Correction of such deficiencies shall be at no cost to City.

30. **LEGAL REQUIREMENTS** All materials, equipment, supplies and services shall conform to applicable Federal, State County and City laws, statutes, rules and regulations. The Contractor shall observe and comply with all Federal, State, County and City laws, statutes, rules and regulations that affect the work to be done. The provisions of this contract shall be governed by the laws of the State of Maryland.

31. **SUBCONTRACTING** When allowed, bidders who intend to subcontract any portion of the work including delivery, installation or maintenance will submit to the City prior to the start of work: 1) a description of the items to be subcontracted, 2) all subcontractor names, addresses and telephone numbers and 3) the nature and extent of the work utilized during the life of the contract.

This does not relieve the Contractor from the prime responsibility of full and complete performance under the contract. There shall be no contractual relationship between the City and any subcontractor.

32. **AUTHORITY OF THE CITY MANAGER IN DISPUTES** Except as may otherwise be provided by the final agreement, any dispute concerning a question of fact arising under the agreement signed by the City and the Contractor which is not disposed of by the final agreement shall be decided by the City Manager who shall notify the Contractor in writing of his determination. The Contractor shall be afforded the opportunity to be heard and offer evidence in support of the claim. Pending final decision of the dispute herein, the Contractor shall proceed diligently with performance under the agreement signed by the City and the Contractor. The decision of the City Manager shall be final and conclusive unless an appeal is taken pursuant to City Purchasing Ordinance.

33. **INDEMNIFICATION OF THE COUNCIL** The Contractor shall indemnify and save harmless the Mayor and Council from all suits, actions and damages or costs, of every name and description to which the Mayor and Council may be subjected or put by reason of injury to persons or property as a result of the work, whether caused by negligence or carelessness on part of the Contractor, or subcontractors or agents of the Contractor.

34. **NO LIMITATION OF LIABILITY** The mention of any specific duty or liability of the Contractor in any part of the specification shall not be construed as a limitation or restriction upon any general liability or duty imposed upon the Contractor.

35. **CONFIDENTIAL INFORMATION** The City agrees, to the extent permitted by law, to hold all material and information belonging to the offeror, which is confidential, in strictest confidence. Material designed as confidential must be readily separable from the remainder of the proposal to facilitate public inspection of the non-confidential portion of the proposal. A firm's designation of materials as confidential will not necessarily be conclusive, and the firm may be required to provide justification why such materials should not be disclosed, on request, under the Maryland Access to Public Record Act.

The Contractor agrees to hold all material and information belonging to the City or the City's agents in strictest confidence and not to make use thereof other than for the performance of contractual obligations, to release it only to employees requiring such information. Reasonable precautions will be exercised for the protection of any proprietary data included in the proposal.

36. **RELEASE OF INFORMATION** During the term of the final agreement, the successful Contractor shall not release any information related to the services or the performance of the services under the agreement nor publish any final reports or documents without the prior written approval of the City.

37. **MISCELLANEOUS PROVISIONS** The City and the Contractor each bind themselves, their partners, successors, assign and legal representatives of such other parties in respect to all covenants, agreements, and obligations contained in the contract document. Neither party to the contract shall assign the contract or sublet it as a whole without the written consent of the other, nor shall the Contractor assign any monies due or to become due hereunder without the previous written consent of the City. Written notice shall be deemed to have been duly served if delivered in person to the individual or member of the firm or to any officer of the corporation for whom it was intended if delivered or sent by registered or certified mail to the last known address.

Duties and obligations imposed by the contract documents and the rights and remedies available thereunder shall be in addition to and not a limitation of the duties, obligations, rights and remedies otherwise imposed or available by law, unless so indicated.

38. **ETHICS REQUIREMENTS** In accordance with the City's financial disclosure and ethical conduct policy and/or ordinances a prerequisite for payment pursuant to the terms of this contract is that the Contractor may be required to furnish explicit statements, under oath, that the City Manager, and/or any other officer, agent, and/or employee of the City, and any member of the governing body of the City of Rockville or any member or employee of a Commission, Board, or Corporation controlled or appointed by the City Council, Rockville, Maryland has not received or has not been promised directly or indirectly any financial benefit by way of fee, commission, finder's fee, or in any other manner, remuneration arising from directly or indirectly related to this contract, and that upon request by the City Manager, or

other authorized agent, as a prerequisite to payment pursuant to the terms of this contract, the Contractor will furnish to the Mayor and Council of the City of Rockville, under oath, answers to any interrogatories to a possible conflict of interest has herein embodied.

39. **EQUAL EMPLOYMENT OPPORTUNITY** The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, or disability. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, sex, national origin, or disability. Such action shall include but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment, layoff or termination; rates of pay or other form of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices (provided by the City) setting forth the provisions of this nondiscrimination clause.

If the Contractor fails to comply with non-discrimination clauses of this contract or fails to include such contract provisions in all subcontracts, this contract may be declared void AB INITIO, cancelled, terminated or suspended in whole or in part and the Contractor may be declared ineligible for further contracts with the City of Rockville.

Any employee, applicant for employment, or prospective employee with information concerning any breach of these requirements may communicate such information to the City Manager who shall commence a prompt investigation of the alleged violation. Pursuant to such investigation, the Contractor will permit access to the Contractor's books, records and accounts. If the City Manager concludes that the Contractor has failed to comply with nondiscrimination clauses, the remedies set out above may be invoked.

40. **IMMIGRATION REFORM AND CONTROL ACT** The Contractor awarded a contract pursuant to this bid shall warrant that it does not and shall not hire, recruit or refer for a fee, for employment under the contract, an alien knowing the alien is an unauthorized alien and hire any individual without complying with the requirements of the Immigration Reform and Control Act of 1986 (the Act), including but not limited to any verification and record keeping requirements. The Contractor shall further assure the City that, in accordance with the Act, it does not and will not discriminate against an individual with respect to hiring, or recruitment or referral for a fee, of the individual for employment or the discharging of the individual from employment because of such individual's national origin or in the case of a citizen or intending citizen, because of such individual's citizenship status.
41. **ASSIGNMENT** Neither this contract nor any interest therein nor claim thereunder shall be assigned or transferred by the Contractor except as expressly authorized in writing by the City.
42. **EXCLUSION** As part of the contract, the offeror must warrant that it will not engage in providing consulting or other services to any private entity regarding any property within the study area during the term of the project. This requirement is intended to avoid the appearance of any conflict of interest that may arise. This exclusion also applies to all subcontractors.
43. **OWNERSHIP OF DOCUMENTS** Any and all deliverables, including but not limited to reports, specifications, blueprints, plans, negatives, electronic files and documents, as well as, any other documents prepared by the Contractor in the performance of its obligations under the resulting contract shall be the exclusive property of the City. The Contractor shall not use, willingly allow, or cause such materials to be used for any purpose other than performance of all Contractors' obligations under the resulting contract without the prior written consent of City. Documents and materials developed by the Contractor under the resulting contract shall be the property of City of Rockville; however, the Contractor may retain file copies, which cannot be used without prior written consent of the City. The City agrees that the Contractor shall not be liable for any damage, loss, or injury resulting from the future use of the provided documents for other than the project specified, when the Contractor is not the firm of record.

## INSURANCE REQUIREMENTS REV2

Prior to the execution of the contract by the City, the Contractor must obtain at their own cost and expense and keep in force and effect during the term of the contract including all extensions, the following insurance with an insurance company/companies licensed to do business in the State of Maryland evidenced by a certificate of insurance and/or copies of the insurance policies. The Contractor's insurance shall be primary.

The Contractor must submit to the Purchasing Division, 111 Maryland Avenue, Rockville, MD 20850 a certificate of insurance prior to the start of any work. In no event may the insurance coverage be less than shown below.

Unless otherwise described in this contract the successful contractor and subcontractors will be required to maintain for the life of the contract and to furnish the City evidence of insurance as follows:

### MANDATORY REQUIREMENTS FOR INSURANCE

Contractor's insurance coverage shall be primary insurance as respects the City, its elected and appointed officials, officers, consultants, agents and employees and any insurance or self-insurance maintained by the City, shall be excess of the Contractor's insurance and shall not be called upon to contribute with it.

Type of Insurance	Amounts of Insurance	Endorsements and Provisions
<b>1. Workers' Compensation</b> <b>2. Employers' Liability</b>	Bodily Injury by Accident: \$100,000 each accident  Bodily Injury by Disease: \$500,000 policy limits  Bodily Injury by Disease: \$100,000 each employee	Waiver of Subrogation:  WC 00 03 13 Waiver of Our Rights to Recover From Others Endorsement – signed and dated.
<b>3. Commercial General Liability</b>  a. Bodily Injury b. Property Damage c. Contractual Liability d. Premise/Operations e. Independent Contractors f. Products/Completed Operations g. Personal Injury	Each Occurrence: \$1,000,000	City to be listed as additional insured and provided 30 day notice of cancellation or material change in coverage.  CG 20 37 07 04 and CG 20 10 07 04 forms to be both signed and dated.
<b>4. Automobile Liability</b>  a. All Owned Autos b. Hired Autos c. Non-Owned Autos	Combined Single Limit for Bodily Injury and Property Damage - (each accident): \$1,000,000	City to be listed as additional insured and provided 30 day notice of cancellation or material change in coverage. Form CA20 48 02 99 form to be both signed and dated.
<b>5. Excess/Umbrella Liability</b>	Each Occurrence/Aggregate: \$1,000,000	City to be listed as additional insured and provided 30 day notice of cancellation or material change in coverage.
<b>6. Professional Liability</b>	Each Occurrence/Aggregate: \$1,000,000	

Alternative and/or additional insurance requirements, when outlined under the special provisions of this contract, shall take precedence over the above requirements in part or in full as described therein.

### POLICY CANCELLATION

No change, cancellation or non-renewed shall be made in any insurance coverage without a thirty (30) day written notice to the City Purchasing Division. The Contractor shall furnish a new certificate prior to any change or cancellation date. The failure of the Contractor to deliver a new and valid certificate will result in suspension of all payments and cessation of on-site work activities until a new certificate is furnished.

### ADDITIONAL INSURED

**The Mayor and Council of Rockville, which includes its elected and appointed officials, officers, consultants, agents and employees must be named as an additional insured** on the Contractor's Commercial and Excess/Umbrella Insurance for liability arising out of contractor's products, goods, and services provided under this contract. Additionally, The Mayor and Council of Rockville must be named as additional insured on the Contractor's Automobile and General Liability Policies. Endorsements reflecting the Mayor and Council of Rockville as an additional insured are required to be submitted with the insurance certificate.

#### **SUBCONTRACTORS**

All subcontractors shall meet the requirements of this Section before commencing work. In addition, Contractor shall include all subcontractors as insured's under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverage's for subcontractors shall be subject to all of the requirements stated herein.

#### **CERTIFICATE HOLDER**

**The Mayor and Council of Rockville**  
**(Contract #, title)**  
City Hall  
111 Maryland Avenue  
Rockville, MD 20850

**EXHIBIT E**

**SAMPLE AGREEMENT**

THIS AGREEMENT, made this \_\_\_\_ day of \_\_\_\_\_, 2012 by and between the **MAYOR AND COUNCIL OF ROCKVILLE**, a municipal corporation organized under the laws of Maryland, hereinafter referred to as the "**CITY**", and \_\_\_\_\_ hereinafter referred to as "**CONTRACTOR**".

**WITNESSETH**

WHEREAS, the City desires the Contractor to provide (*insert description*).

WHEREAS, the City desires to employ the services of the Contractor in connection with the aforementioned service under the terms and conditions set forth herein.

NOW THEREFORE, in consideration of the covenants and promises set forth, the parties hereto agree as follows:

1. **SCOPE OF WORK.** The Contractor agrees to perform the work described and be bound by the terms and conditions set forth in (*insert*) dated (*insert*) hereto attached a made a part hereof and identified as Exhibit "A" and (*insert*) . In the event any terms of the attached exhibit conflicts with this Agreement, this Agreement shall prevail.

Contractor shall perform the services described in this Agreement (a) in a timely, diligent and professional manner in accordance with recognized standards of the applicable industry or profession, and; (b) in accordance with the time periods set forth in this Agreement and in the schedule and sequencing specified by the City. Contractor shall furnish efficient business administration and superintendence and shall use its best efforts to insure that such services being performed under this Agreement are completed in the best way and in the most expeditious and economical manner consistent with the City's best interests.

2. **REVIEW BY CITY.** The Contractor agrees that the work and records covered by this Agreement will be subject to review, at all times, by representatives of the City.

3. **DOCUMENTS, ETC.** All finished or unfinished documents, data, studies, surveys, drawings, CADD drawings, maps, models, photographs, letters and reports prepared by the Contractor or his subcontractors shall become the property of the City.

4. **EQUAL EMPLOYMENT OPPORTUNITY.** During the performance of this Agreement, the Contractor agrees that he will comply with all applicable federal, state and local laws relating to discrimination in employment.

5. **INDEMNIFICATION.** The Contractor agrees to indemnify and save harmless the City against any liability, claim, demand for personal injury or property damage, and other expenses or

losses suffered or arising out of or caused by any negligent act or omission of the Contractor, its subcontractors, servants, agents or employees incurred in the performance of the Agreement.

6. **TERMINATION FOR CONVENIENCE.** The City may terminate this Agreement for convenience by giving written notice to the Contractor of such termination and specifying the effective date thereof, at least five (5) days before the effective date of such termination. If the Agreement is terminated by the City as provided in this Section the Contractor will be paid on a pro-rata basis for work performed.

7. **TIME OF ESSENCE.** The Consultant acknowledges that time is of the essence in providing the services under this Agreement and agrees to assign adequate personnel sufficient to respond to requests for service.

8. **CONTRACT TERM.** This Agreement shall be effective upon execution of the contract and shall continue through     (insert)    .

9. **TERMINATION FOR CAUSE.** If through any cause, the Contractor shall fail to fulfill in a timely and proper manner his obligation under this Agreement, or if the Contractor shall violate any of the covenants, agreements, or stipulations of this Agreement, the City shall thereupon have the right to terminate this Agreement by giving written notice to the Contractor of such termination and specifying the effective date thereof, at least five (5) days before the effective date of such termination. If the Agreement is terminated by the City as provided in this Section the Contractor will be paid an amount based on the number of hours actually worked at the hourly rates set forth herein, or if no hourly rate is set forth, Contractor shall be paid on a pro-rata basis for work performed. Notwithstanding the above, the Contractor shall not be relieved of liability to the City for damages sustained by the City by virtue of any breach of the Agreement by the Contractor, and the City may withhold any payments due the Contractor up to the full amount of the Contractor's fee, until such a time as the exact amount of damages due the City from the Contractor is determined by any Court of Competent Jurisdiction.

10. **COMPLIANCE WITH LAWS.** The Contractor shall observe and comply with federal, state, county and local laws, ordinances and regulations that affect the work to be done herein, and shall indemnify and hold the City harmless, and all of its officers, agents and servants against any claim or liability from or based on the violation of any such law, ordinance or regulation, whether by the Contractor or the Contractor's agent. Notwithstanding the foregoing, in the event that the Contractor determines that a conflict exists between any applicable law, ordinance and/or regulation, the Contractor will so advise the City and the City will decide which law, ordinance and/or regulation shall be followed.

11. **SUBCONTRACTS.** None of the services covered by this Agreement, shall be subcontracted without the prior written consent of the City. The Contractor will require all subcontractors to have in effect at all times insurance coverage for negligent acts, errors and omissions of subcontractors and their employees and the City shall be named as an insured party.

12. **ASSIGNMENT.** The Contractor shall not assign or transfer any interest in this Agreement without the prior written approval of the City.



13. INSURANCE. The Contractor shall carry insurance with limits as required by the City and shall provide to the City a certificate evidencing the same.

14. CONFLICTS OF INTEREST. The Contractor covenants that it has presently no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required to be performed under this Agreement. The Contractor further covenants that in the performance of this Agreement no person having any such interest shall be employed.

15. DISPUTES. Except as otherwise provided in this agreement, any dispute concerning a question of fact arising out of this agreement which is not disposed of by agreement, shall be decided in accordance with Section 17-174 of the City's Purchasing Ordinance as set forth in Chapter 17 of the Rockville City Code.

16. GOVERNING LAW. This agreement is executed in the State of Maryland and shall be governed by Maryland law. The Contractor, by execution of this Agreement, consents to the jurisdiction of the Maryland state courts with respect to any dispute arising out of this agreement and further consents to venue in Montgomery County, Maryland.

17. SUCCESSORS AND ASSIGNS: This Agreement shall be binding and inure to the benefit of all successors and assigns of the parties hereto. Notwithstanding the foregoing, this Agreement shall be considered a personal services contract and the Contractor shall not assign any right or obligation under this Agreement without the City's express written consent which may be withheld in the City's sole and absolute discretion.

18. INDEPENDENT CONTRACTOR. The Contractor shall perform this Agreement as an independent contractor and shall not be considered an agent of the City, nor shall any of the Contractor's employees or agents be subagents of the City.

19. COMPENSATION. The Contractor shall provide to the City the services described in the amount not to exceed (*insert*). In the event the labor hours and expenses exceed this amount the Contractor shall complete the task with no additional compensation.

20. INVOICING. Requisitions for payment shall include a complete description of the services rendered, personnel, hourly rates, hours and date of services. All requisitions shall be submitted to the City of Rockville, Attn: Ms. Barbara Matthews, 111 Maryland Avenue, Rockville, MD 20850.

21. MODIFICATION. This agreement may be modified only by written instrument signed by both parties hereto.

22. ENTIRE AGREEMENT. This agreement, including the exhibits attached hereto, constitutes the entire agreement between the City and the Contractor, and the parties shall not be bound by any prior negotiation, representations or promises, not contained herein.

IN WITNESS WHEREOF, the parties have set their hands and seals hereto on the date written above.

ATTEST

THE MAYOR AND COUNCIL OF  
ROCKVILLE

\_\_\_\_\_  
City Clerk

By: \_\_\_\_\_  
City Manager

*(INSERT CONTRACTOR NAME)*

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Approved as to form and legality:

\_\_\_\_\_  
City Attorney